

## ORDINANCE NO. 19-04

### **AN ORDINANCE TO AMEND THE TOWN OF MILLVILLE CODE AT CHAPTERS 1, 58, 72, 80, 90, 97, 111, 125, 132, AND 155 RELATED TO VIOLATIONS AND PENALTIES**

WHEREAS, the Town Council of Millville has the power to adopt ordinances for the protection and preservation of Town property, rights and privileges; for the preservation of peace and good order; for securing protection and promotion of health, safety, comfort, convenience, welfare and happiness of the residents of the Town; and

WHEREAS, the Town Council may from time to time amend, supplement, or change the regulations and restrictions established by this Ordinance; and

NOW, THEREFORE, BE IT ORDAINED, by the Town Council for the Town of Millville, Sussex County, Delaware, having duly met and a majority thereof concurring therein, following a duly noticed public hearing held on September 11, 2018, that the following language hereby is adopted and incorporated into the Town of Millville Code as follows:

Additions will be in black bold and underlined.

~~Deletions will be black bold strike through.~~

#### Chapter 1: General Provisions

#### Article II. General Penalty

##### § 1-12. Violations and penalties.

Unless the provision in question specifically provides for other penalties, any person who violates a provision of a chapter of the Code shall be fined \$99 for the first offense and \$250 for each subsequent, or continuing, offense. Each day that a violation continues shall be deemed a separate violation.

##### § 1-13. Option to pay fines directly to Town.

Any fine associated with the violation of any section of the Code, as set forth in this article, may be paid directly to the Town of Millville by the due date stated in the notice of violation. If fines are not paid or violations are not remedied, or both, the Town may seek enforcement in a Delaware court of competent jurisdiction.

##### § 1-14. Code enforcement; general procedures.

A. When a Code violation is reported, the Code Enforcement Officer will investigate promptly. Complaints shall be written on a form prepared by the Code

Enforcement Officer and can be relayed by e-mail or in person at Town Hall. A record shall be kept of all complaints pursuant to Town record-keeping policy.

B. If a violation is verified, enforcement action will be taken as follows, unless otherwise provided by the Code:

- (1) A notice of deficiency is mailed to the property owner of record by certified mail/return receipt requested.
- (2) If a violation remains after the number of days indicated in the notice of deficiency for correction, a first notice of violation will be issued with the corresponding fine assessed, and mailed to the property owner of record by certified mail/return receipt requested.
- (3) If a violation remains after the number of days indicated in the first notice of deficiency for correction, a second notice of violation will be issued with the corresponding additional fine assessed, and mailed to the property owner of record by certified mail/return receipt requested.
- (4) If a violation remains after the number of days indicated in the second notice of violation for correction, a summons to appear in court will be issued to the property owner of record.
- (5) In appropriate cases, duplicate notices may also be mailed or provided to residents or tenants of the property, if not owner/occupied, and/or posted on the property, as well as mailed to the property owner of record.

#### § 1-15. Amount of fine to be paid.

The amount due to be paid directly to the Town shall be the minimum amount due as set forth in the § 1-11 above.

#### § 1-16. Records.

The Town shall keep a complete record of all payments made to the Town in accordance with this chapter.

#### § 1-17. Summons.

Code Enforcement Officers are authorized to issue a summons to enforce the minimum fines due for violations of the following chapters of the Code:

<u>Chapter Title</u>	<u>Chapter Number</u>
<u>Moving of Buildings</u>	<u>58</u>
<u>Construction Hours</u>	<u>72</u>
<u>Firearms</u>	<u>80</u>
<u>Licenses</u>	<u>90</u>
<u>Noise</u>	<u>97</u>
<u>Property Maintenance</u>	<u>111</u>
<u>Subdivision of Land</u>	<u>125</u>
<u>Taxation</u>	<u>132</u>
<u>Zoning</u>	<u>155</u>

#### § 1-18. Notices to be mailed.

A. Any notice issued for failure to comply with the specific chapter of this Code, shall be mailed to the owner of record of the property certified mail/return receipt requested that is subject of the violation at the owner's last known address as shown on the assessment records of the Town.

B. In appropriate cases, duplicate notices may also be mailed or provided to residents or tenants of the property, if not owner occupied, posted on the property, or both, as well as mailed to the owner of record.

#### § 1-19. Expenses incurred by Town.

Any person in violation shall become liable to the Town for any expense, loss or damage suffered by the Town by reason of such violation, including, but not limited to, the Town's engineers' fees, the Town's attorneys' fees and costs of prosecution.

#### § 1-20. Non-exclusivity of remedies.

The fines in this chapter shall not be deemed as the exclusive remedy for any violation. By way of example, the Mayor and Town Council may direct the Town Solicitor or another attorney to proceed at law or in equity against any person

responsible for the violation for the purpose of enjoining any continuing or subsequent violation.

#### § 1-21. Definitions.

For the purpose of this article, the following definitions shall be applicable unless the context clearly indicates to the contrary:

#### PERSON

“Person” and “whoever” respectively include corporations, companies, associations, firms, partnerships, societies and joint-stock companies, as well as individuals.

#### Chapter 58: Buildings, Moving of

§ 58-9. Enforcement; liability; violations and penalties.

~~D. Any person, persons, partnerships, corporations, or other entity who shall in any way violate the provisions of this chapter shall, upon conviction thereof, forfeit and pay to the Town of Millville a fine not exceeding the sum of \$1,000 for each and every offense, together with the costs of prosecution. Each day or part of the day a violation continues shall be deemed a separate offense.~~

Any person violating any provision of this chapter shall be subject to such penalties and pay such fines as set forth in Chapter 1, Article II. General Penalty.

#### Chapter 72: Construction Hours

§ 72-6. Violations and penalties; revocation of license.

~~A. Any person, persons, partnerships, corporations, or other entity who shall in any way violate the provisions of this chapter shall, upon conviction thereof, forfeit and pay to the Town of Millville a fine not exceeding the sum of \$1,000 for each and every offense, together with the costs of prosecution. Each day or part of the day a violation continues shall be deemed a separate offense.~~

Any person violating any provision of this chapter shall be subject to such penalties and pay such fines as set forth in Chapter 1, Article II. General Penalty.

#### Chapter 80: Firearms

§ 80-1. Possession of firearms, ammunition, components of firearms or explosives in municipal buildings and police stations prohibited.

~~F. Penalties. Any person who shall violate or fail to conform to any provision of this chapter shall be subject to penalties under this chapter not exceeding \$200 for each day of the violations, as well as the Town's costs and expenses, including reasonable attorneys' fees, incurred to enforce the provisions of this chapter and/or to collect the penalties imposed hereunder. Penalties assessed for a violation of this chapter and/or to collect the penalties imposed hereunder. Penalties assessed for a violation of this chapter shall be considered civil penalties, and any action brought for the recovery of the penalties by the Town shall be brought in any civil court of competent jurisdiction.~~

Any person violating any provision of this section shall be subject to such penalties and pay such fines as set forth in Chapter 1, Article II. General Penalty.

#### § 80-2. Discharging firearms and weapons.

~~D. Any person who violates this section shall, upon conviction thereof, shall be fined not less than \$25 nor more than \$50 for the first offense, in addition to the costs of prosecution, and for any subsequent like offense, shall be fined not less than \$50 nor more than \$99 in addition to the costs of prosecution. For purposes of this section, each discharge of a firearm shall be deemed to be a separate offense.~~

Any person violating any provision of this section shall be subject to such penalties and pay such fines as set forth in Chapter 1, Article II. General Penalty.

### Chapter 90: Licenses

#### § 90-14. Violations and penalties.

~~Any person, persons, partnerships, corporations, or other entity who shall in any way violate the provisions of this chapter shall, upon conviction thereof, forfeit and pay to the Town of Millville a fine not exceeding the sum of \$1,000 for each and every offense, together with the costs of prosecution. Each day or part of the day a violation continues shall be deemed a separate offense.~~

Any person violating any provision of this chapter shall be subject to such penalties and pay such fines as set forth in Chapter 1, Article II. General Penalty.

### Chapter 97: Noise

#### § 97-4. Violations and penalties.

~~Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200. For a second or subsequent conviction, any person, firm or corporation~~

~~shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500. Each day that a violation of any of the provisions of this chapter continues shall be deemed and shall be taken to be a separate and distinct violation.~~

Any person violating any provision of this chapter shall be subject to such penalties and pay such fines as set forth in Chapter 1, Article II. General Penalty.

## Chapter 111: Property Maintenance

### § 111-3. Violations and penalties

~~Any person, persons, partnerships, corporations, or other entity who or which shall in any way violate a provision of this article of this chapter shall, upon conviction thereof, forfeit and pay to the Town of Millville a fine not less than the sum of \$50 and not exceeding the sum of \$99 for each and every offense, together with the costs of prosecution. Each day or part of the separate day a violation continues shall be deemed a separate offense.~~

Any person violating any provision of this chapter shall be subject to such penalties and pay such fines as set forth in Chapter 1, Article II. General Penalty.

## Chapter 125: Subdivision of Land

~~C. Any person, persons, partnerships, corporations, or other entity who shall in any way violate the provisions of this chapter shall, upon conviction thereof, forfeit and pay to the Town of Millville a fine not exceeding the sum of \$1,000 for each and every offense, together with the costs of prosecution. Each day or part of the day a violation continues shall be deemed a separate offense.~~

Any person violating any provision of this chapter shall be subject to such penalties and pay such fines as set forth in Chapter 1, Article II. General Penalty.

~~I. All fines collected for violations of the requirements and regulations contained in this chapter shall be collectable in the same manner as taxes.~~

## Chapter 132: Taxation

### Article II: Realty Transfer Tax

### § 132-12. Violations and penalties.

~~Any person, persons, partnerships, corporations, or other entity who shall in any way violate the provisions of this article shall, upon conviction thereof, be fined not more than \$500 and imprisoned for not more than 1 year, or both.~~



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Any person violating any provision of this section shall be subject to such penalties and pay such fines as set forth in Chapter 1, Article II. General Penalty.

## Chapter 155: Zoning

### § 155-65. Violations and penalties.

~~Any person, persons, partnerships, corporations, or other entity who shall in any way violate the provisions of this chapter shall, upon conviction thereof, forfeit and pay to the Town of Millville a fine not exceeding the sum of \$1,000 for each and every offense, together with the costs of prosecution. Each day or part of the day a violation continues shall be deemed a separate offense.~~

Any person violating any provision of this chapter shall be subject to such penalties and pay such fines as set forth in Chapter 1, Article II. General Penalty.

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF MILLVILLE, SUSSEX COUNTY, DELAWARE, ON THIS 9 DAY OF October, 2018.

SEAL:



Robert W. Gordon  
ROBERT GORDON, MAYOR

ATTESTED:

Peter Michel  
PETER MICHEL, SECRETARY

Matthew Thomas Amerling